

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

SEP 14 2009

ADMINISTRATIVE HEARING
COMMISSION

DIRECTOR, DEPARTMENT OF)
INSURANCE, FINANCIAL INSTITUTIONS)
& PROFESSIONAL REGISTRATION)
State of Missouri,)

Petitioner,)

vs.)

Case No.: _____

DAVID SCOTT COLEMAN,)

Respondent.)

Serve:)

590 Basswood Drive)
Rolla, Missouri 65401)
(573) 729-7070)

COMPLAINT

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, complains and requests the Administrative Hearing Commission find that cause exists for disciplinary action against Respondent, David Scott Coleman, because:

INFORMATION RELEVANT TO ALL COUNTS

1. Petitioner is the Director of the Department of Insurance, Financial Institutions and Professional Registration ("Director"). The Director has the duty to administer Chapter 374, RSMo, which includes the supervision, regulation, and discipline of bail bond agents licensed to operate and conduct business in the state of Missouri.

2. The Missouri Department of Insurance, Financial Institutions and Professional Registration (“Department”) issued Respondent David Scott Coleman (“Respondent”) a bail bond agent license on August 19, 2002 and which has been subsequently renewed and expires on August 19, 2011 (License Number 0306209).

3. The Commission has jurisdiction over this Complaint pursuant to § 621.045, RSMo (Supp. 2008).

4. On April 2, 2009, a Subpoena Duces Tecum, ordering Respondent’s presence at the Department on April 23, 2009 at 2:30 p.m., was mailed via certified mail to Respondent. Respondent testified, under oath, in the offices of the Department in the Harry S Truman Building on April 23, 2009.

COUNT I

5. Respondent failed to account for each power of attorney assigned by his general bail bond agent, Gary Darby, on a weekly basis and failed to remit all sums collected and owed to Gary Darby pursuant to their written contract, which is a violation of § 374.716.1, RSMo (Supp. 2008) and a ground for discipline of Respondent’s bail bond agent license pursuant to § 374.755.1(6), RSMo (Supp. 2008).

6. Section 374.716.1, RSMo (Supp. 2008), states, in part, that “Every bail bond agent shall account for each power of attorney assigned by the general bail bond agent on a weekly basis and remit all sums collected and owed to the general bail bond agent pursuant to his or her written contract.”

7. Section 374.755.1(6), RSMo (Supp. 2008), states that the Director may suspend, revoke, refuse to issue or refuse to renew a bail bond agent license for a violation of any provision of or any obligation imposed by the laws of this state, Department rules and

regulations, or aiding or abetting other persons to violate such laws, orders, rules or regulations, or subpoenas.

8. The facts are as follows:

- a. On or about February 2008, Respondent posted a bond for Larry Harris in the amount of \$100,000.00 in Pulaski County Circuit Court, Case Number 25R05061694F.
- b. Respondent never forwarded a copy of the power of attorney or sent the sums owed from the Larry Harris bond to his general bail bond agent, Gary Darby.
- c. On April 23, 2009, Respondent was asked the question “So true or false: Neither you or George Sharp accounted for the power of attorney or remitted funds to Mr. Darby?” to which, Respondent answered, under oath, “True.”

9. As a result, sufficient grounds exist for disciplining Respondent’s bail bond agent license pursuant to § 374.755.1(6), RSMo (Supp. 2008).

COUNT II

10. Petitioner realleges and expressly incorporates the allegations in paragraphs 5-9.

11. Respondent misappropriated the premium received from Larry Harris for the taking of bail by not forwarding the amount owed to his general bail bond agent, Gary Darby, which is a cause for discipline under § 374.755.1(5), RSMo (Supp. 2008).

12. Section 374.755.1(5), RSMo (Supp. 2008), states that the Director may suspend, revoke, refuse to issue or refuse to renew a bail bond agent license for “misappropriation of the premium, collateral, or other things of value given to a bail bond agent or a general bail bond agent for the taking of bail, incompetency, misconduct, gross negligence, fraud, or

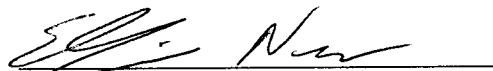
misrepresentation in the performance of the functions or duties of the profession licensed or regulated by sections 374.695 to 374.775.”

13. Misappropriation has been defined as “[t]he unauthorized, improper, or unlawful use of funds or other property for purpose other than that for which intended.” *Monia v. Melahn*, 876 S.W.2d 709, 713 (Mo. App. E.D. 1994).

14. As a result, sufficient ground exist for disciplining Respondent’s bail bond agent license pursuant to § 374.755.1(5), RSMo (Supp. 2008).

WHEREFORE, based on the foregoing, Petitioner respectfully requests that the Commission make findings of fact and conclusions of law stating that Petitioner has established cause to discipline Respondent David Scott Coleman’s bail bond agent license pursuant to §§ 374.755.1(5) and 374.755.1(6), RSMo (Supp. 2008).

Respectfully submitted,



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